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OFFICE OF PETITIONS

In re Application of :
Agee et al. :
Application No. 09/920,903 : ON PETITION
Filed: 3 August, 2001 :
Attorney's Docket No. 4271-4036US3 :

This is a decision on the petition filed on 24 October, 2001, requesting that the above-identified application be accorded a filing date of 3 August, 2001, with Pages 26-37 as a part of the original disclosure.

The petition is granted.

The application was filed on 3 August, 2001. However, on 27 September, 2001, Initial Patent Examination Division mailed a "Notice" stating, *inter alia*, that the application had been accorded a filing date but that Pages 26-37 of the specification (description and claims) appeared to have been omitted.

In response, on 24 October, 2001, pages 26-37 of the specification, the present petition, and a petition fee were filed. Petitioners argue that Pages 26-37 were filed with the other application papers on 3 August, 2001, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied on 24 October, 2001. The postcard receipt shows an Office date stamp of 3 August, 2001, identifies the application by first named inventor's last name, docket number, and invention title, and acknowledges receipt of, *inter alia*, 181 pages of specification and 73 pages of claims. Petitioners request that the application, including Pages 26-37 of the specification, be accorded a filing date of 3 August, 2001.

A review of the record reveals that no Pages 26-37 of the specification has been located among the application papers deposited on 3 August, 2001. However, the evidence is convincing that the application papers deposited on 3 August, 2001, included Pages 26-37 of the specification, which were subsequently misplaced in the Office. Therefore, the application, including Pages 26-37 of the specification, is entitled to a filing date of 3 August, 2001.

The "Notice" mailed on 27 September, 2001, is vacated to the extent that it stated that pages 26-37 of the specification appeared to have been omitted.

In view of the above, the petition is granted. The petition fee is unnecessary and will be credited to counsel's deposit account, No. 13-4503. The filing and extra claims fees required by the Notice to File Missing Parts mailed 27 September, 2001, will also be charged to counsel's deposit account.

The application will be processed and examined using the copies of Pages 26-37 supplied on 24 October, 2001.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 3 August, 2001, using the application papers filed on 3 August, 2001, and the copies of Pages 26-37 supplied on 24 October, 2001.

Telephone inquiries should be directed to Petitions Attorney Douglas I. Wood at 703 308-6918.



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